

§ 648.22

50 CFR Ch. VI (10–1–07 Edition)

the analysis provided by the Council, applicants may be required to provide additional analysis of impacts of the exemptions before issuance of an EFP will be considered, as specified in the EFP regulations at § 648.745(b).

[61 FR 34968, July 3, 1996, as amended at 62 FR 8637, Feb. 26, 1997; 64 FR 57593, Oct. 26, 1999; 65 FR 16345, Mar. 28, 2000; 65 FR 55927, Sept. 15, 2000; 66 FR 13028, Mar. 2, 2001; 66 FR 35566, July 6, 2001; 66 FR 42159, Aug. 10, 2001; 67 FR 3627, Jan. 25, 2002; 67 FR 44394, July 2, 2002; 68 FR 60, Jan. 2, 2003; 69 FR 16178, Mar. 29, 2004; 71 FR 63270, Oct. 30, 2006; 72 FR 4216, Jan. 30, 2007; 72 FR 8632, Feb. 27, 2007]

§ 648.22 Closure of the fishery.

(a) *Closing Procedures.* (1) NMFS shall close the directed mackerel fishery in the EEZ when the Regional Administrator projects that 80 percent of the mackerel DAH is landed, if such a closure is necessary to prevent the DAH from being exceeded. The closure shall remain in effect for the remainder of the fishing year, with incidental catches allowed as specified in paragraph (c) of this section, until the entire DAH is attained. When the Regional Administrator projects that the DAH will be landed for mackerel, NMFS will close the mackerel fishery in the EEZ, and the incidental catches specified for mackerel in paragraph (c) of this section will be prohibited.

(2) NMFS shall close the directed fishery in the EEZ for *Loligo* when the Regional Administrator projects that 90 percent of the quota is harvested in Trimesters I and II, and when 95 percent of DAH has been harvested in Trimester III. The closure of the directed fishery shall be in effect for the remainder of the fishing period, with incidental catches allowed as specified in paragraph (c) of this section.

(3) NMFS shall close the directed *Illex* or butterflyfish fishery in the EEZ when the Regional Administrator projects that 95 percent of the *Illex* or butterflyfish DAH is landed. The closure of the directed fishery will be in effect for the remainder of the fishing year, with incidental catches allowed as specified in paragraph (c) of this section.

(b) *Notification.* Upon determining that a closure is necessary, the Assistant Administrator will notify, in advance of the closure, the Executive Di-

rectors of the MAFMC, NEFMC, and SAFMC; mail notification of the closure to all holders of mackerel, squid, and butterflyfish fishery permits at least 72 hours before the effective date of the closure; provide adequate notice of the closure to recreational participants in the fishery; and publish notification of closure in the FEDERAL REGISTER.

(c) *Incidental catches.* During a closure of the directed mackerel fishery, the possession limit for mackerel is 10 percent, by weight, of the total amount of fish on board. For vessels that have been issued a *Loligo* or butterflyfish incidental catch permit (as specified at § 648.4(a)(5)(ii)) or during a closure of the directed fishery for *Loligo* or butterflyfish, the possession limit for *Loligo* and butterflyfish is 2,500 lb (1.13 mt) each. For vessels that have been issued an *Illex* incidental catch permit (specified at § 648.4(a)(5)(ii)) or during a closure of the directed fishery for *Illex*, the possession limit for *Illex* is 10,000 lb (4.54 mt). Vessels may not land more than these limits and may only land once during any single calendar day, which is defined as the 24 hr period beginning at 0001 hours and ending at 2400 hours.

[61 FR 34968, July 3, 1996, as amended at 62 FR 8637, Feb. 26, 1997; 65 FR 16345, Mar. 28, 2000; 65 FR 81765, Dec. 27, 2000; 66 FR 13028, Mar. 2, 2001; 69 FR 4864, Feb. 2, 2004; 72 FR 4217, Jan. 30, 2007; 72 FR 8632, Feb. 27, 2007]

EDITORIAL NOTE: At 72 FR 4217, Jan. 30, 2007, § 648.22(d) was added; however, the amendment could not be incorporated because the text was not provided.

§ 648.23 Gear restrictions.

(a) *Mesh restrictions and exemptions.*

(1) Vessels subject to the mesh restrictions outlined in this paragraph (a) may not have available for immediate use any net, or any piece of net, with a mesh size smaller than that required.

(2) Owners or operators of otter trawl vessels possessing 5,000 lb (2.27 mt) or more of butterflyfish harvested in or from the EEZ may only fish with nets having a minimum codend mesh of 3 inches (76 mm) diamond mesh, inside stretch measure, applied throughout the codend for at least 100 continuous meshes forward of the terminus of the net, or for codends with less than 100 meshes, the minimum mesh size